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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/542,975	07/21/2005	Alastair J. Martin	PHUS030017US	1970
38107 7590 06/25/2009 PHILIPS INTELLECTUAL PROPERTY & STANDARDS P. O. Box 3001 BRIARCLIFF MANOR, NY 10510				
EXAMINER MCEVOY, THOMAS M				
ART UNIT		PAPER NUMBER		
3731				
MAIL DATE		DELIVERY MODE		
06/25/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/542,975

Applicant(s)

MARTIN, ALASTAIR J.

Examiner

THOMAS MCEVOY

Art Unit

3731

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 March 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 13, 16 and 19-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 13, 16 and 19-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SI/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claim 21 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. No specific structure is disclosed for the claimed embodiment. One of ordinary skill in the art could not be expected to visualize (without any drawings), from Applicant's brief written description of this embodiment, a specific combination of two separate stents with patterns that cancel each other. Examiner notes that simply reversing the Figure 2 pattern and placing it within the Figure 2 stent (although this is not specifically disclosed) would result (as disclosed by Applicant) in two stent patterns such that the currents within each stent are cancelled out due to the stent pattern in which they flow; not by the other stent.

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 13 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 13 recites the limitation "the insulator nodes" in lines

16-17. There is insufficient antecedent basis for this limitation in the claim.

Furthermore, it is unclear what this limitation is intended to mean in its present context.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

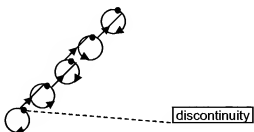
6. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

7. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pacetti (US 2002/0188345).

Regarding claim 13, Pacetti discloses a magnetic resonance compatible stent for use in intravascular therapy, the stent comprising: a plurality of electrically conductive elements arranged in a generally tubular structure, the conductive elements comprising generally diagonally arranged struts with respect to a central axis of the stent, the conductive elements comprising: a plurality of loops 40 disposed about a central axis of the stent; and a plurality of linking members 50 for joining the loops such that the loops, and linking members form a generally tubular structure around the central axis of the

stent; and a plurality of non-conductive connector nodes 52 disposed among the conductive elements for directing a current induced by RF signals in an examination region of a magnetic resonance apparatus such that a net current flowing in the stent is substantially minimized. Pacetti fails to specifically disclose that the current is directed to flow in the conductive elements such that adjacent segment currents cancel each other; wherein the loops and linking members are connected within insulator nodes such that the currents flowing through adjacent loops substantially cancel each other. Pacetti discloses that any number or arrangement of the connecting members and non-conductive connector nodes may be made to form the stent, which is only dependent on design choice so long as complete electrical loops or cells are avoided (paragraphs 0034 and 0035). It therefore would have been obvious to one of ordinary skill in the art to have constructed the stent of Pacetti with, for example, one connecting member between adjacent loops and one discontinuity per loop. Any possible arrangement using these criteria would also be obvious; such as the construction shown below.



8. Claims 16, 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pacetti (US 2002/0188345) in view of Lau et al. (US 6,066,168).

Regarding claims 16 and 19, Pacetti discloses the stent as described above but fails to disclose a diamond-shaped mesh (presuming this refers to Applicant's Figure 2 embodiment). Pacetti discloses that the features of his invention are to be incorporated into any prior art stent (paragraph 0041) and only discloses specific stent constructions as examples. Lau et al. disclose an out-of-phase alignment (Figure 11) of stent loops (that would form a diamond-shaped mesh at least when expanded; Applicant has not claimed the structure of the individual diamond-shaped elements). Lau et al. disclose that one connector can be used to connect adjacent loops and that the connectors can be substantially aligned (Figure 7). Lau et al. disclose that the connectors should connect between only peaks or valleys (col. 3, lines 5-9). It would have been obvious to one of ordinary skill in the art to have configured the invention of Pacetti with the Lau et al. out-of-phase alignment and substantially aligned connectors having only peak-to-peak or valley-to-valley connections because Lau et al. disclose this as a suitable stent contraction and Pacetti discloses that any prior-art stent can be used. This combination would reasonably result in the above drawing since it avoids complete electrical loops and incorporates the structural features of Lau et al. Regarding claim 20, the above combination could be made incorporating the connectors being placed at 90° intervals as shown in Figure 8 of Lau et al. Again, it would have been obvious to one of ordinary skill in the art to have placed one non-conductive connector node per loop in any arrangement so long as the criteria of Pacetti is met: no complete conductive loops or cells - as described above. With the structure of Lau et al. and this criteria, one of ordinary skill in the art could place non-conductive connector nodes so that current

flows in equal but opposite directions, in directly opposite peripheral portions of adjacent loops, so that the currents are cancelled.

Response to Arguments

9. Applicant's arguments filed March 10th 2009 have been fully considered but they are not persuasive. Applicant has argued that Pacetti teaches away from the limitations of claim 13. Examiner respectfully disagrees and believes that Pacetti teaches placing non-conductive connector nodes in any arrangement on any stent so long as complete conductive loops (structural loops, not necessarily complete conductive paths) or complete conductive cells are avoided.

Conclusion

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to THOMAS MCEVOY whose telephone number is (571)270-5034. The examiner can normally be reached on M-F, 9:00-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anh Tuan Nguyen can be reached on 571-272-4963. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

12. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Thomas Mcevoy/
Examiner, Art Unit 3731

/Anh Tuan T. Nguyen/
Supervisory Patent Examiner, Art Unit 3731
6/22/09